

# Exhibit A

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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MOOG INC.,

Plaintiff,

vs.

SKYRYSE, INC., et al.,

Defendants.  
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22-CV-187 (LJV-JJM)

Buffalo, New York  
June 16, 2022

**TELEPHONIC CONFERENCE**

TRANSCRIPT OF PROCEEDINGS  
BEFORE MAGISTRATE JUDGE JEREMIAH J. MCCARTHY  
UNITED STATES MAGISTRATE JUDGE

FOR PLAINTIFF: SHEPPARD MULLIN RICHTER & HAMPTON LLP  
(Via Zoom.gov) BY: RENA ANDOH, ESQ.  
BY: LAI LAM YIP, ESQ.  
BY: KAZIM A. NAQVI, ESQ.

-and-

FOR PLAINTIFF: HODGSON RUSS LLP  
(Via Zoom.gov) BY: ROBERT J. FLUSKEY, JR., ESQ.

FOR DEFENDANT: LATHAM & WATKINS LLP  
(Skyryse) BY: GABRIEL S. GROSS, ESQ.  
(Via Zoom.gov) BY: DOUGLAS E. LUMISH, ESQ.

-and-

FOR DEFENDANT: HARRIS BEACH LLP  
(Skyryse) BY: TERRANCE P. FLYNN, ESQ.  
(Via Zoom.gov)

FOR DEFENDANT: WINGET, SPADAFORA & SCHWARTZBERG LLP  
(Pilkington/Kim) BY: ANTHONY D. GREEN, ESQ.  
(Via Zoom.gov) BY: ALEXANDER ASHER TRUITT, ESQ.

ALSO PRESENT: JERI LOONEY, GENERAL COUNSEL - SKYRYSE

TRANSCRIBER: Diane S. Martens  
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1           **MR. NAQVI:** No, your Honor, I think we've addressed it.  
2 Thank you.

3           **MAGISTRATE JUDGE MCCARTHY:** Okay. Well, you've done  
4 very well so far. All right.

5           Then Paragraph two regarding the supplementation to  
6 interrogatories two through ten and that's request for  
7 admissions one through three, Moog's position is they haven't  
8 been supplemented.

9           Mr. Gross, you wish to speak to that?

10          **MR. GROSS:** Sure. I think that Moog just misreads the  
11 statement by Skyryse's prior counsel. At the time the  
12 statement was made, there were ten interrogatories  
13 outstanding, numbers one through ten; there were three  
14 requests for admission outstanding, one through three. I  
15 think interrogatory number one had already been supplemented  
16 at that point.

17          So counsel committed to supplementing what was left,  
18 which was as, you know, as needed, which was interrogatories  
19 two through ten and requests for admissions one through  
20 three.

21          We've worked on those with our client. We supplemented  
22 the responses within there that were appropriate to  
23 supplement. They all didn't require supplementation at this  
24 point. So we have supplemented what needed to be  
25 supplemented. And if over the course of discovery we find

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1 supplementation. And so if that's the case, you know, we  
2 will evaluate and, if necessary, we'll have to file a motion  
3 to the Court.

4 **MAGISTRATE JUDGE MCCARTHY:** Okay. Well, yeah, and you  
5 reserve your rights. And obviously I'm not drilling down to  
6 the extent of deciding whether a particular discovery  
7 response needed supplementation or did not need  
8 supplementation but Mr. Gross has clarified at this point  
9 that they've supplemented what they believe needs  
10 supplementation and if you feel that there is something else  
11 that should have been supplemented, you, as you just  
12 indicated, bring a motion to compel.

13 But I suggest that the parties before doing so, again,  
14 meet and confer. Believe me, I'm cognizant of the fact that  
15 there's a lot to be done between now and October when the  
16 preliminary injunction hearing is scheduled to take place.  
17 And I want to move this along as quickly as reasonably  
18 possible. But I think we're just going to have to leave that  
19 issue on the table for now.

20 By the way, one of the other issues I wanted to raise  
21 with the parties is I think you should -- or maybe you  
22 already have, but I think you should check with Judge  
23 Vilardo's chambers to get a firm date in October. I think  
24 mentioned -- or somebody's mentioned October 17th to commence  
25 but whether that date is locked in stone as far as he's

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1 can't do that. It can take the investigation it wants.

2 To reiterate: We preserved all the evidence that's  
3 potentially relevant in the company's possession, custody and  
4 control and issued instructions to do the same to all the  
5 relevant employees.

6 **MAGISTRATE JUDGE MCCARTHY:** All right. I think I'm  
7 going to leave it at that for present time.

8 To repeat, I guess, for the third time, my view is  
9 Skyryse does have control over employees' individual devices,  
10 to the extent of directing them to preserve all information  
11 relevant to this case. It cannot say it -- and it has not,  
12 is not currently saying -- that it doesn't have that control.

13 In terms of how a search would be made for information,  
14 I just, I got to suggest that the parties continue to meet  
15 and confer on that and bring it back to me if it can't be  
16 finalized.

17 But I will say I do see some proportionality issues here  
18 that might be involved as well as the need to protect  
19 privacy. You know, it's come up in an unrelated situation.  
20 I'm sure you all read the Supreme Court apparently is asking  
21 its clerks to turn over their, or allow searches of their  
22 cell phones and that implicates some serious privacy  
23 concerns. I don't know how that's all going to shake out.

24 But, obviously, private information unrelated to this  
25 lawsuit cannot be compelled but information that is related

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1       **MR. NAQVI:** Your Honor, if I may.

2       **MAGISTRATE JUDGE MCCARTHY:** Yeah, go ahead.

3       **MR. NAQVI:** Yes, I think, you know, Moog appreciates  
4 that a sample was run but over 11,500 files have been sent to  
5 IDS. The March 11th order is very clear: Moog non-public  
6 information is to be presumptively turned over to Moog. It's  
7 only supposed to go to IDS if, quote, "delivery necessarily  
8 includes property of any defendants."

9       And to date, you know, all we've heard from Skyryse is  
10 that the information sent to I -- segregated files; I'm not  
11 talking about the laptops and other devices -- that these  
12 segregated files may contain Skyryse information, it can  
13 possibly contain Skyryse information, they were pulled from  
14 Skyryse devices. That's not what the order requires.

15       And it's Moog's expectation that anything that does not  
16 necessarily contain Skyryse information be sent directly to  
17 Moog and we have not had that representation at all until  
18 this point. And a sample is fine. We don't know if that  
19 sample is five documents or ten documents but it's our  
20 position that any document that does not necessarily include  
21 Skyryse information should have been turned over to us months  
22 ago. And we think it should be turned over now.

23       **MR. GROSS:** Your Honor, I don't know what documents  
24 Mr. Naqvi is talking about. We -- every, everything we  
25 turned over hit on one of their search terms and to the best

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1 and you'll be advised of that.

2 **MR. GREEN:** Absolutely. Thank you, your Honor.

3 **MAGISTRATE JUDGE MCCARTHY:** Rena, are you able to find  
4 your wayward associate?

5 **MS. ANDOH:** I don't know if he's having computer issues  
6 or not, your Honor. In the interest of not wasting  
7 everybody's time, I can step in for now and hopefully he can  
8 come right back on.

9 **MAGISTRATE JUDGE MCCARTHY:** All right. But let him know  
10 that he did a fine job.

11 **MS. ANDOH:** I certainly will and, hopefully, he'll  
12 finish the job.

13 **MAGISTRATE JUDGE MCCARTHY:** All right. There are limits  
14 on my time, as well, and I appreciate all these issues are  
15 important to everybody, as they are to me. But I just want  
16 to maybe quickly move through the balance of the June 16th  
17 letter with paragraph seven and the following issues.

18 I do tend to agree with Skyryse that the questions in  
19 the April 27th letter were not in the form of interrogatories  
20 and I think there should be some limits on what needs to be  
21 formally responded to.

22 But notwithstanding that, Mr. Gross, I think you could  
23 assume that, if need be, interrogatories will be served. So,  
24 to the extent you can respond to this information without a  
25 formal request, I encourage you to do so.

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1 to urge the Court to really consider the proportionality  
2 issue.

3 **MAGISTRATE JUDGE MCCARTHY:** Well, I --

4 **MS. ANDOH:** Your Honor --

5 **MAGISTRATE JUDGE MCCARTHY:** I --

6 **MS. ANDOH:** Your Honor --

7 **MAGISTRATE JUDGE MCCARTHY:** Wait. Wait, wait, wait,  
8 both of you.

9 I am not going to order that they -- that the responses  
10 be verified but I am going to direct you to confer in good  
11 faith and it may be down the road that there will be an  
12 interrogatory notwithstanding limitations on it. They can  
13 always be exceeded.

14 So I would ask you, to the extent possible, Mr. Gross,  
15 to treat them as formal requests and respond in an  
16 appropriate manner but I'm not going to direct today that you  
17 have to verify those answers. That may be -- hopefully the  
18 parties can work through that. If not, it's an issue we can  
19 take up when we reconvene again, okay.

20 **MR. GROSS:** I understand, your Honor, thank you.

21 **MAGISTRATE JUDGE MCCARTHY:** So let's -- today is  
22 June 16th. So I'm back the week of July 9th -- or, excuse  
23 me, July 11th so I could do something the latter part of that  
24 week, the 15th for example, or I could do something the  
25 following week, whatever works for folks.